

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ERNESTO ACOSTA, *as Executor of the  
Estate of Tiennet Acosta, Deceased*, et al.,

Plaintiff,

-against-

UNITED STATES OF AMERICA, et al.

Defendants.

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/4/2024
---

23-CV-3551 (VSB) (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

This action is scheduled for a settlement conference on April 9, 2024. (Dkt. 85.) Pursuant to the Court's original Order Scheduling Settlement Conference (Scheduling Order) (Dkt. 58), the parties were required to "conduct at least one good-faith settlement discussion, in person or by telephone," and to "convey to each opposing party at least one good-faith settlement demand or offer," before submitting their confidential settlement letter to chambers. (*Id.* ¶ 2.) The settlement letters were due "[n]o later than one week (seven calendar days) before the conference" (*id.* ¶ 3), that is, by April 2, and were required to include "[a] brief description of settlement negotiations to date, including the date and time of the parties' last good-faith settlement discussion and the terms of each party's most recent demand or offer." (*Id.* ¶ 3(c).) At the same time, each party was required to submit an acknowledgement form confirming that its lead trial counsel would attend the settlement conference, accompanied by the client (if an individual) or by a client representative who is "a decision-maker with knowledge of the case and responsibility for determining the amount of any ultimate settlement[.]" (*Id.* ¶¶ 1(a), 4.) Any request to modify these procedures "must be made by letter-motion, filed via ECF in accordance with the Individual Practices of Judge Moses, as soon as the need for the adjournment or modification arises and in any event at least one week (seven calendar days) before the scheduled conference." (*Id.* ¶ 6.)

The parties have failed to comply with the requirements of the Scheduling Order. First, the Court has not yet received any settlement letter from third-party defendant New York City Health and Hospitals Corporation (NYCHHC). NYCHHC is hereby ORDERED to submit its letter by the **close of business today**.

In addition, acknowledgment forms submitted by third-party defendant Deborah Conway, M.D., and the United States of America propose the telephonic attendance of client representatives, but the Court has received no letter-motions explaining the need for such an accommodation or requesting permission for the telephonic appearances to date.

Moreover, based on the Court's review of the settlement letters it has received, it is not clear that all parties are willing to participate in a settlement conference at this juncture. Judge Moses will hold a counsel-only pre-settlement telephonic conference on **Monday, April 8, 2024, at 11:00 a.m.** A few minutes beforehand, counsel shall dial (888) 557-8511 and enter the access code 7746387.

Dated: New York, New York  
April 4, 2024

**SO ORDERED.**



---

**BARBARA MOSES**  
**United States Magistrate Judge**